

CHAPTER 10

THE ROLE OF THE EU IN INTERSTATE RELATIONS

The aim of this chapter is to present the ambitions for European unity and the progress and functioning of the European Union as their result.

10.1. THE HISTORY OF THE IDEA OF EUROPEAN UNITY

10.1.1. *THE BEGINNINGS*

From the 15th century until now, a myriad of papers and drafts attest to the fact that Europeans have been long interested in the possibility of the cooperation between states and nations. The proponents of the idea of European unity were primarily seeking ways to establish peace and to humanize power. They found the peaceful future of the world and Europe in the confederal and federal democratic development of the rule of law.

Erasmus of Rotterdam (1469-1536) should be mentioned from among them. As one of the most excellent philosophers of humanism, the writer from the then Low Countries had analyzed questions of war and stability of the European countries in his 1515 publication “The Complaint of Peace”, wherein he concluded: the divergence of the European princes can endanger Europe, and only some kind of cooperation could be the solution.¹

Spanish humanist *Juan Louis Vives* (1492-1540), who lived at the prime of the Turkish conquests, also researched the legal framework of restraining war. According to his view, pan-European peace could be reached within a supranational political integration, in which the monarchs and their counselors endeavor to broker peace between the states.²

The *Duke of Sully* (1560-1641), a seminal personality of French political life in the 16-17th centuries, visualized a European confederation of 15 states cooperating. The plan included the remarks of Henry IV, king of France from 1589 to 1610, the first monarch from the House of Bourbon. Accordingly, a balanced political situation, allowing for an integration overarching the kingdoms, could have been created through the mitigation of the European influence of the House of Hapsburg.³

Émeric Crucé (1590?-1648) (elsewhere *Émeric de la Croix*) French monk was optimistic as he had hoped that humanity had already been convinced of the futility of every type of war. That was why he saw the course of long-term development in **European cooperation** based on the development of economic relations.⁴

From among the philosophers of the 17th and 18th centuries the following stand out: *Comenius* (1592-1670) Czech writer, *William Penn* (1644-1718) English philosopher and *Charles-Irénée Castel, abbé de Saint-Pierre* (1658-1743), one of the leading figures of the French **Enlightenment**, the author of the “Project for an Everlasting Peace in Europe”. They also thought that war could possibly

¹ J. NAGY-KÖVÉR 2000, 9.

² J. NAGY-KÖVÉR 2000, 12.

³ J. NAGY-KÖVÉR 2000, 14.

⁴ J. NAGY-KÖVÉR 2000, 21.

be avoided through a higher level of integration. Penn proposed the establishment of a European Parliament with the delegates of MS. While analyzing the reign of Louis XIV, the famous philosopher of the French Enlightenment, *Montesquieu* concluded that “one nation’s reign over the others is moral impossibility”.⁵

The hegemony of nation states in the politics in the 18th and 19th centuries lead to searching for new points of connection in Europe. The German philosopher *Kant* had seen the incarnation of the ideal condition of eternal peace in the picture of Europe.⁶ *Giuseppe Mazzini*, as a member of the *carbonari* movement, believed in creating a European unity after the Italian unity. The first proposal envisioning Europe as a system managed by a sovereign central body instead of the nation state model, was published in the pamphlet “On the Reorganization of European Society” by *Saint-Simon* in 1814. In his view, the decision making in the matters of common concerns would happen in the European Parliament, which comprises the parliaments of the nation states.⁷

Interestingly, the introduction of the expression “United States of Europe” into the public domain is from *Victor Hugo*, the famous writer, member of the French Romantic Movement. His aim was to give emphasis to the similarities with the transatlantic American Federation.⁸

10.1.2. THE THOUGHT OF UNITY IN THE 1920s, KALergi AND THE PANEUROPEAN UNION

In 1918, in connection with the peace treaties ending the First World War (1914-1918), American president *Wilson* worked out a fourteen-point model for the new world order. From his ideas, the **League of Nations** was materialized, which was set up by the signature of the delegates of the 44 founding states on 28 June 1919. Hungary asked for membership in 22 August 1922. The organization seated in Geneva, with its two main organs being the General Assembly and the Council.

In the ‘20s, the role of the USA increased, while Europe’s diminished. The cumulation of bitterness, lost hope and unresolved conflicts was characteristic to post-war society, politics and economy. According to those looking for a way out of this critical situation, one of the possible solutions was proposed as a league of the European states. Those who supported the idea of European integration, in turn, strongly opposed the methods of the system of the Treaty of Versailles as part of the Paris Treaty concluding WWI. Pacifist members of the League of Nations supported cooperation in economy, trade and industry.

The serious economic situation of Europe, the desire for peace and security, the American economic power, and the fear of Soviet ideological influence were the determinative emotions of this period, along with the knowledge that the nations of Europe have several common cultural and intellectual features.⁹

The intelligentsia of the era proficient in international perspectives – primarily in Germany, Austria and France – urged the political and economic integration of European states. This was done most impressively by the Austrian count, *Richard Nikolaus Coudenhove-Kalergi* (1894-1972). *Kalergi* was an aristocrat with a real European spirit, who became one of the greatest minds of the history of the European federalism. His work influenced the times between the two world wars and during and

⁵ J. NAGY-KÖVÉR 2000, 52.

⁶ CHALMERS-DAVIES-MONTI 2010, 5.

⁷ CHALMERS-DAVIES-MONTI 2010, 7.

⁸ KENDE 1995, 20.

⁹ VÁRADI 2006, 173.

after WWII, thus essential in the setup of the Council of Europe, and the development of European integration politics after WWII.¹⁰

The book on his thoughts, *Pan-Europe* was published in 1923.¹¹ In his view, the key to the renewal of Europe is transformation into a regional political and economic federation during post-war consolidation within the framework of the League of Nations. He hoped thereby to prevent another World War and founding a great European market without internal customs. Interestingly, when drawing up the borders of Pan-Europe, he introduced the definition of the so-called 'Little Europe', excluding Russia and the United Kingdom, as he thought that these "have outgrown" Europe and broke ties with the politics of the Continent.¹² *Kalergi's* views gained followers quickly, founding the **Pan-European Movement**. *Aristide Briand*, French Foreign Minister became the president of the movement, who saw the organization as a possible forum of cooperation with the Germans.¹³ The movement was supported by leading politicians, historical figures and famous artists such as *Churchill*, *Stresemann*, *Konrad Adenauer*, *Thomas Mann*, *Einstein*, *Freud*.

It must be stressed that the **Briand Memorandum**, created and submitted to the League of Nations by *Briand* in 1930, was the plan that has been negotiated between the states at the highest-level and got the greatest publicity, containing the wish for the federal unification of Europe on an economic base. However, the proposal was left unanswered when Europe was drifting towards war in the 1930s.¹⁴ Afterwards, the question of European unity appears once again only in the last phase of WWII, when practical realization can be put in motion. By relying on the experiences of the earlier unity plans, such as *Kalergi's*. This points to the significance of his personality and ideas.¹⁵

10.1.3. THE DIRECT ANTECEDENTS OF EUROPEAN INTEGRATION

During WWII, the Allies started to work on post-war settlement plans. Nevertheless, by the end of the war it became clear, that Europe will be torn in two. While Central Europe, Eastern Europe and the Eastern part of the beaten Germany fell under Soviet occupation, other parts of Germany and the Western part of the Continent were influenced by the USA.¹⁶

One important moment of the beginning of the **cold war** between the USA and the USSR was the congressional speech of *Harry S. Truman*, the 33rd president of the USA on 12 March 1947, in which he announced the *Truman Doctrine*. According to this doctrine, it is the obligation of the USA to interfere with economic and military instruments in states where Communism gains ground. Truman asked for 400 million dollars from Congress to aid Greece and Turkey in economic and military issues, and safeguard these states as parts of the free world. The Doctrine defined US politics until 1989, as the US military interfered in Korea and Vietnam to avoid expansion by the USSR.¹⁷

Europe suffered serious economic losses during WWII, large part of the population was starving. In his speech at Harvard, US Foreign Minister, *George C. Marshall* proposed a comprehensive American aid program to all European state willing to cooperate with the USA during reconstruction. The aim of the **Marshall Plan** was a politically and economically integrated Western Europe, as the USA could

¹⁰ BÓKA 2001, 161., VÁRADI 2006, 173.

¹¹ COUDENHOVE-KALERGI 1926.

¹² NÉMETH 2001, 199-205.

¹³ MALLER 2000, 66.

¹⁴ GOMBOS 2017.

¹⁵ VÁRADI 2006, 196.

¹⁶ OSZTOVICS 2012, 29.

¹⁷ DEDMAN 2010, 21.

have expected the USSR and the Central- and Eastern European states under the Soviet influence will reject it – just as it had happened.¹⁸ The aid, the European Recovery Program distributed more than 22 million dollars among 16 Western European states during a four-year-period.¹⁹

The **Organisation for European Economic Cooperation** (OEEC) was established in 1948 to help the distribution of the aids, which also started cooperation and communication between the Western European states gaining aids. This organization is an important preliminary of European economic integration, already having several of its important future components, such as the gradual reduction of customs duties between the participating states, and increasing European trade, although without a supranational element, only on a strictly intergovernmental basis, albeit with the possibility of veto.²⁰ (See further in Chapter 8 above.)

As part of the organization, Britain proposed a British-French customs union, albeit there was no consensus on this issue.²¹ In lieu, the UK and France entered into an agreement of mutual defense in the Treaty of Dunkirk (Dunquerque) in 1947, which was expanded with the Treaty of Brussels on the Western Union in 1948. Thereby, the States Parties (Belgium, France, the Netherlands, Luxembourg and the UK) decided on economic, social and cultural cooperation, and collective self-defense. The latter would have been the instrument of defense of the members against a possible German aggression. The organization later became and operated as the Western European Union (WEU).²²

The intended economic, social and cultural cooperation eventually had not been realized, the MS concentrated more and more on a defense community. However, the WEU did not gain the “strength” embodied by the USA and Canada. On 4 April 1949, in Washington, the **North Atlantic Treaty Organization** (NATO) was established with the cooperation of the USA, Canada and 10 Western European states.²³

The establishment of NATO could be seen as a consequence of the *Truman Doctrine*, as the direct result of the arms race of the cold war. The aim of the organization was to protect the freedom and security of the MS, as the first Secretary General, *Lord Hastings Lionel Ismay* said: “*to keep the Russians out, the Americans in, and the Germans down*” in Europe. Iceland, Italy, Norway and Denmark also acceded after the founding members. Today, it has 29 members, and the organization has peacekeeping operations beyond the borders of the MS. Hungary has been a member of the organization from 1999.²⁴

According to Article 5 of the North Atlantic Treaty, the organization is based on the principle of collective self-defense. The Parties agree that an armed attack against one or more of them from a third state, a non-NATO MS, shall be considered an attack against them all and they provide protection to the state concerned.²⁵

Meanwhile, on 25 January 1949, in Moscow and upon Soviet initiative, the **Council for Mutual Economic Assistance** (CMEA) was established as the economic integrational organization of Eastern Europe, to counterpoint the *Marshall Plan* for the reconstruction of Western Europe. The founding members were the USSR and Bulgaria, Czechoslovakia, Hungary, Poland and Romania. The aim of the CMEA was to strengthen the economic cooperation between the Socialist states, the catching up of the

¹⁸ DEDMAN 2010, 33.

¹⁹ DEDMAN 2010, 22.

²⁰ URWIN 1995, 19-20.

²¹ DEDMAN 2010, 33.

²² DEDMAN 2010, 34.

²³ URWIN 1995, 23.

²⁴ The official website of the NATO: https://www.nato.int/cps/us/natohq/declassified_137930.htm

²⁵ The official website of the NATO: <https://www.nato.int/nato-welcome/index.html>

economically weak countries with division of labor and specialization. The organization strengthened the mutual dependence between the USSR and the MS.²⁶

The establishment of NATO and the acceptance of the Western part of the divided Germany into its ranks was not left without an answer. On 14 May 1955, upon Polish initiative and lead by the USSR, the Warsaw Pact was concluded as a military, defense community of all Central- and Eastern European Socialist countries within the sphere of interests of the USSR.²⁷ The members were: Albania, Bulgaria, Czechoslovakia, East Germany, Hungary, Poland, Romania and the USSR. The Warsaw Pact ceased in parallel with the disintegration of the USSR in 1991.

10.1.4. CHURCHILL – ONE OF THE FOUNDING FATHERS OF EUROPEAN INTEGRATION

A significant statesman, *Winston Churchill*, should be mentioned in connection with the foundations of European integration. *Churchill* was the Prime Minister of the UK from 1940 to 1945 and from 1951 to 1955. Having drawn the conclusions from WWII, it became his conviction that only a united Europe can guarantee peace. He was one of the first supporters of the establishment of the “United States of Europe”. His aim was to end nationalism and warmongering, which often infected the Continent, once and for all.²⁸

From the aspect of European integration, **two of his speeches** have far-reaching importance. The first is the one given in Westminster College, **Fulton**, USA on 5 March 1946, when he was awarded an honorary degree. In this famous speech, *Churchill* emphasized the community of interest between the USA and the UK while condemning the expanding foreign policy of the USSR. He said: “*From Stettin in the Baltic to Trieste in the Adriatic, an Iron Curtain has descended across the continent*”, so the democratic half of Europe is in real danger as well. This speech, besides the *Truman Doctrine*, is considered the overture of the cold war, as the expression ‘Iron Curtain’ was one of the most important symbols thereof.²⁹

On 19 September 1946, the **Zurich** University, he spoke about the rise of Europe and said that to avoid a new war, there is a need for a “United States of Europe” which can successfully integrate the states and support development. He thought that the first step was to develop the partnership between France and Germany. According to his view, instead of the central role of one strong state, a united Europe must be established, where the small and the big states have the same role in creating peace, security and prosperity for the common good. He warned that there is only a little time for this action, as there is only a short “breathing room” after the war, immediate action is needed. To support the progress of connections between France and Germany, he recommended the establishment of a Council of Europe, which hopefully will be supported by the USSR, with the aim of strengthening the friendship with them.³⁰

Excerpt from the Zurich Speech of Churchill

“Yet all the while there is a remedy which, (...) would in a few years make all Europe (...) as free and happy as Switzerland is today. (...) It is to recreate the European fabric, or as much of it as we can, and to provide it with a structure under which it can dwell in peace, safety and freedom. We must build a kind of United States of Europe.”

²⁶ VAN MEERHAEGHE 1987, 206-207.

²⁷ CRUMP 2015, 19.

²⁸ The official website of the EU: https://europa.eu/european-union/about-eu/history/founding-fathers_hu#box_4

²⁹ HARBUTT 1986, 184-185.

³⁰ *Winston Churchill's speech*, Zurich University 19 September 1946. <http://aei.pitt.edu/14362/1/S2%2D1.pdf>

To realize *Churchill's* idea, the international commission of the Movement for United Europe, led by his son-in-law, *Duncan Sandys*, organized the first Europe Congress in the Hague, where 800 delegates from every state of Europe participated, with the USA and Canada sending observers. The importance of the congress was the agreement on future cooperation. As a result of actual political cooperation, on 5 May 1949 the UK, France, Belgium, Netherlands, Luxembourg, Denmark, Greece, Ireland, Iceland, Norway, Italy, Sweden and Turkey signed the statute of the **Council of Europe** in London.³¹

The establishment of the Council of Europe can be considered a significant milestone in the road toward European integration. The aim of the new international organization was to further the cooperation of the MS and to secure peace and the protection of human rights in Europe while respecting the values of freedom, democracy and rule of law.³²

Originally, the organization would have been created based on federalist ideas, where the participating MS would have approximated their legal systems and political structures step by step, which would have led to a much tighter unity.³³ However, the MS were not ready to give up their sovereign competences. Thus, the Council of Europe became a classic, archetypical regional international organization, being the 'vanguard' of human rights protection. Its greatest achievement is the *European Convention on Human Rights and Fundamental Freedoms* (ECHR), adopted in Rome in 1950. The ECHR is protected by the Strasbourg-based *European Court of Human Rights* (ECtHR). Nowadays the organization has 47 members from Europe.³⁴ (See in detail in Chapter 9 above.)

10.2. THE ESTABLISHMENT OF THE EUROPEAN COAL AND STEEL COMMUNITY

Seeing as the Council of Europe did not respond to the need for closer unity, efforts to create said unity have returned to the development of **economic cooperation** instead of the political unity based on the proposals of *Kalergi* and *Briand*. Two factors had basic role in the progress: the demand for economic cooperation and the intent to avoid a future war.

The Allies were ready to recognize the Western part of Germany as a sovereign state in 1949 on the condition of having the *Ruhrgebiet* under international control. This area produced strategically important coal and steel, thus it has been the former stronghold of German arms manufacture, with coal and steel being the basic materials for manufacturing arms. Whichever country has control over this area, it will gain advantage in the arms race, that was why France wanted to gain control of the area after the WWII. To avoid this and the opportunity of secret armaments, the International Ruhr Authority was established upon British initiative with the membership of the USA, the UK, France and the Benelux states. The rivalry between the West and the East made it clear that the Allies will release West Germany from every restriction. France was in an impossible situation.³⁵

As the German coal and steel production was the economic engine of Europe, which could have given a new impetus to European economy as a whole, and as Franco-German relations became intolerable, two French statesman, *Jean Monnet*, president of the French Planning Committee, and *Robert Schuman*, French Foreign Minister, proposed a plan for the solution of the situation.³⁶

³¹ WEISS 2017, 5-6.

³² WEISS 2017, 16.

³³ OSZTOVICS 2012, 30.

³⁴ DÖRR 2017, 467.

³⁵ MILWARD 1984, 154.

³⁶ OSZTOVICS 2012, 32.

Schuman and Monnet gave a press conference about the **Schuman Declaration** in the Clock Room of the French Foreign Ministry on 9 May 1950. The Schuman Declaration was prepared by Monnet. The key point of this plan was to have France and Germany start negotiations to put their coal and steel market under mutual control. The association would be governed by an independent High Authority with a wide scope of activity. The solution unambiguously demonstrated the desire for peace and made common development with equal chances possible.³⁷

The Schuman Declaration

“World peace cannot be safeguarded without the making of creative efforts proportionate to the dangers which threaten it. (...) Europe will not be made all at once, or according to a single plan. It will be built through concrete achievements which first create a de facto solidarity. The coming together of the nations of Europe requires the elimination of the age-old opposition of France and Germany. (...) It proposes that Franco-German production of coal and steel as a whole be placed under a common High Authority, within the framework of an organization open to the participation of the other countries of Europe. The pooling of coal and steel production should immediately provide for the setting up of common foundations for economic development as a first step in the federation of Europe, and will change the destinies of those regions which have long been devoted to the manufacture of munitions of war, of which they have been the most constant victims. (...) any war between France and Germany becomes not merely unthinkable, but materially impossible. The setting up of this powerful productive unit, open to all countries willing to take part (...) will lay a true foundation for their economic unification. (...) The common High Authority entrusted with the management of the scheme will be composed of independent persons appointed by the governments, giving equal representation. A chairman will be chosen by common agreement between the governments. The Authority’s decisions will be enforceable in France, Germany and other member countries. (...)”³⁸

The UK was invited to the negotiations based on the plan, albeit they declined participation especially because of the idea of the High Authority. The novelty of the proposal was the **supranational** character of the High Authority, pursuant to which the High Authority would have operated independently from the MS with the participation of international officials.³⁹

Beside the actively negotiating Schuman and Monnet, Konrad Adenauer, the first Chancellor of West Germany, Alcide de Gasperi, Italian Prime Minister and Paul Henri Spaak, Belgian Prime Minister participated, who – together as such – are considered the **founding fathers of European integration** and the future **European Union**. The anniversary of the Schuman Declaration, on which the foundations of the future European Union have been laid down, is celebrated as Europe Day on 9 May each year in every EU MS.

The first integrational organization based on the Schuman Declaration was the **European Coal and Steel Community (ECSC)**. The founding states are the ‘inner six’: Belgium, the Netherlands, Luxembourg, the German Federal Republic, France and Italy.

³⁷ MILWARD 1984, 398.

³⁸ Source: The Schuman Declaration https://europa.eu/european-union/about-eu/symbols/europe-day/schuman-declaration_hu

³⁹ LORD 1998, 25.

The ECSC, otherwise called Montanunion was established by a treaty signed in Paris on 18 April 1951, which entered into force in 25 July, the effect of the treaty was limited to fifty years. It ceased to exist on 1 January 2003, when its legislation and organizational system was absorbed by the European Community. Proof to the openness of the Treaty can be found under Article 98 of the ECSC Treaty meaning that third-party states could join subsequently. Consequently, any European state could have requested accession to the Treaty.⁴⁰

When the ECSC Treaty was drawn up, *Schuman* underlined that the conditions of accession to the treaty should demonstrate the openness of the community. The criterion of being a ‘European state’ was based on the patterns of membership in the Council of Europe. As a matter of fact, the Council of Europe only sends invitations for such European states to accede to it, which are able and willing to accept the principles and the ideals of the common European heritage. *Schuman* proposed the idea of not only examining the conditions of being European based on geographical factors, thereby only such states would be enabled to join the community, which, in the spirit of European traditions and in accordance therewith, have a structure that build on the principle of freedom and the respect of human rights.⁴¹

The supranational High Authority became one of the main institutions of the ECSC, whose members were appointed by the governments of the MS, albeit it decided independently from the MS, bearing in mind the interests of the community. The first president of the High Authority was *Jean Monnet*.⁴²

As the ECSC and the supranational High Authority operated with success, the MS decided on preparing a deeper and more direct economic integration based on the results and foundations of the ECSC, incorporating different sectors of the economy, with its supranational character being dominant.⁴³

10.3. THE ESTABLISHMENT OF THE EUROPEAN ECONOMIC COMMUNITY AND THE EUROPEAN ATOMIC ENERGY COMMUNITY

At their 1955 Messina summit, the Foreign Ministers of ECSC MS entrusted a commission to examine the possibility of establishing a common European market. *Paul-Henri Spaak*, Belgian politician was elected as president of the commission. The document prepared by the Commission was the **Spaak Report**, which resulted in the intergovernmental conference on the establishment of the common market and the Euratom in 1956. The **Treaties of Rome** were signed in 1957.⁴⁴

The ‘inner six’ signed two treaties in Rome on 25 March 1957. They signed the Treaty of Rome, which established the **European Economic Community** (EEC),⁴⁵ and the Euratom Treaty, which established the **European Atomic Energy Community** (Euratom).⁴⁶ The two treaties together are called Treaties of Rome, while in singular, the Treaty of Rome is the Treaty establishing the EEC. The treaties entered into force at the same time on 1 January 1958, and they both had indefinite duration.

⁴⁰ Treaty establishing the European Coal and Steel Community. Paris, 18 April 1951. https://www.cvce.eu/en/obj/treaty_establishing_the_european_coal_and_steel_community_paris_18_april_1951-en-11a21305-941e-49d7-a171-ed5be548cd58.html

⁴¹ MOSLER 1958, 285.

⁴² GOMBOS 2012, 24.

⁴³ CHALMERS–DAVIES–MONTI 2010, 11.

⁴⁴ McALLISTER 1997, 15.

⁴⁵ Treaty establishing the European Economic Community – Vertrag zur Gründung der Europäischen Wirtschaftsgemeinschaft (1957) <https://eur-lex.europa.eu/legal-content/DE/TXT/PDF/?uri=CELEX:11957E/TXT&from=DE>

⁴⁶ Treaty establishing the European Atomic Energy Community (Euratom) (1957) <https://eur-lex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:12012A/TXT&from=EN>

The Treaty of Rome and the Euratom Treaty⁴⁷ created a **supranational** legal system (existing above the nations) based on the partial transfer of the practice of their sovereignty to the Communities, first by the ‘inner six’, then by the acceding countries becoming MS.⁴⁸ These so-called founding treaties (as international treaties) besides creating rights and obligations, simultaneously transferred competences from the MS to the bodies of the integration as well.⁴⁹

The Euratom community is an international organization with the aim of developing the atomic energy industry and looking for peaceful ways of atomic energy usage. It meant the harmonization of research in the field of atomic energy, the creation of common defense rules, and establishing a common market in all sectors connected to the production of atomic energy. In order to reach its goals, the organization can conclude international treaties and develop diplomatic relations. Its establishment was based on the great expectations of atomic energy in the 1950s. However, it became clear quite early, that besides the EEC, Euratom only has a small part in establishing European integration. Its institutions were the Commission, the Assembly, the Council and the Court.⁵⁰

The main aim of creating the EEC was to establish a customs union between the MS – the key point of this being the termination of customs imposed on each other and defining common customs duty rates against external, third countries. The next step was the establishment of the common market encompassing the so-called **four freedoms**: the free movement of goods, persons, services, and capital. Besides these, social and political aims have also been established, like developing life and labor conditions, strengthening peace and freedom, creating the bases of European integration. Common policy was drawn up in the field of agriculture, traffic, and a common competition policy was established to ensure free competition.⁵¹ The customs union between the MS started in 1970. The institutions of the EEC were the Commission, the Assembly, the Council and the Court.

The ECSC, the EEC and the Euratom were three distinct international organizations with the same MS: the ‘inner six’. However, all organizations had their own independent institutions which controlled the functioning of the Community, so they decided to merge the institutions charged with similar roles. This happened by signing the Merger Treaty (*Fusionsvertrag*) in Brussels in 1 July 1967. The High Authority of the ECSC was merged with the Commission of the Treaty of Rome and the Euratom Treaty establishing the common European Commission and the common Council. The European Court and the Assembly were already common from the establishment of the three organizations. The Assembly became the European Parliament.⁵² The title ‘**European Community**’ is officially used from the time the Merger Treaty entered into force, uniting the EEC, the ECSC and the Euratom.⁵³

In 1960, the UK and six other states which did not access the European Communities signed the Stockholm Convention establishing the **European Free Trade Association** (EFTA) founded on a strictly intergovernmental basis. The organization was an alternative to those states, which did not want to access the European Communities; these were: Austria, Denmark, the UK, Norway, Portugal, Switzerland, Sweden, Iceland, Finland, and Liechtenstein. They established a full customs union with the European Communities in 1977. Most of the members accessed to the Communities gradually, therefore, today the EFTA has four members: Norway, Switzerland, Iceland, and Liechtenstein.⁵⁴

⁴⁷ MALLARD 2008, 463.

⁴⁸ BLUTMAN 2013, 49-50.

⁴⁹ BODNÁR 2009, 41-56.

⁵⁰ SÖDERSTEN 2018, 1-2.

⁵¹ URWIN 1995, 78-81.

⁵² KERTÉSZNÉ VÁRADI 2014, 36.

⁵³ Merger Treaty https://www.cvce.eu/en/unit-content/-/unit/b9fe3d6d-e79c-495e-856d-9729144d2cbd/fd7200ae-bfc9-4979-84e3-c1f48ff07724#be427f35-bec6-4872-9afa-e9602d628aea_en&overlay

⁵⁴ The official website of EFTA: <http://www.efta.int/about-efta>

10.4. FROM THE FIRST ENLARGEMENT TO THE SINGLE EUROPEAN ACT

The economic successes of the EEC made the organization more attractive in the eyes of states on the outside. After it was founded, Ireland was the first to apply for EEC membership in 1961. News of the application made it to the UK and Denmark as well, who also indicated their intention to join as members, then Norway applied for membership in 1962.⁵⁵

Charles De Gaulle, the President of France in 1963, said at a press conference that the UK is not compatible with the structure of the EEC and its MS, which are in a more or less similar economic situation. The UK has trade and market connections with several different remote states, its character, structure and economic system basically differs from the states of the Continent, so it is not European enough.⁵⁶ *De Gaulle* objected the accession of the UK because he thought that the cohesion of states with several different features would not last long. In his vision, he saw a gigantic Atlantic community with American dominance and control, which would absorb the European community. *De Gaulle* was afraid of a breach in the dynamics of the integration by the means of the enlargement.⁵⁷

Furthermore, from 1966, based on the Treaty of Rome, the Council consisting of the sectorial ministers of the EEC needed to switch unanimity to qualified majority in making their decisions. *De Gaulle's* France did not want to accept this change, as in the qualified majority system the states did not have veto right, so they can be outvoted when in minority. *De Gaulle* used the **policy of empty seats** as means of his objection from July 1965 to January 1966. France called back the French delegate from the Council to boycott the operation of the community institutions. This practically meant the paralyzing of the decision-making as the presence and approval of every MS was necessary to make decisions. The solution was the *Luxembourg compromise* which created the possibility for every MS to ask for unanimity for a decision by reference to its significant national interest, in these cases the specific decisions could only be adopted through unanimous decisions. This effectively created a national veto right regarding every key decision.⁵⁸

The UK, Ireland, Denmark and Norway asked for accession to the European Communities in 1967, albeit only the change of the French president opened the door of accession in front of them. The substantive accession negotiations were started in 1970, which resulted in the **Northern Enlargement** on 1 January 1973. As the majority of the population voted negatively on the referendum confirming the accession to the EEC in Norway, only the UK, Ireland and Denmark became members of the Communities.⁵⁹

Greece asked for accession to the European Communities after the downfall of the military dictatorship in 1975. It is here, in relation to Greece, where based on the proposal of the Commission, as a specific condition of membership appears: the requirement of a democratic system as well as protection of human rights and freedoms. Besides, the Commission strongly emphasized that the Communities must be able to preserve their capacities to effective operation alongside the enlargement as well. Greece became a member of all three communities in 1 January 1981, thereby increasing the number of the MS to ten.⁶⁰

⁵⁵ KERTÉSZNÉ VÁRADI 2014, 23-30.

⁵⁶ Press Conference by President Charles De Gaulle, Paris, 14th January 1963. Reproduced from WEU, Political Union of Europe. 85-87. In: Archive of European Integration (AEI), University of Pittsburgh, University Library System. <http://aei.pitt.edu/5777/>

⁵⁷ KERTÉSZNÉ VÁRADI 2014, 31-32.

⁵⁸ KERTÉSZNÉ VÁRADI 2014, 39.

⁵⁹ KERTÉSZNÉ VÁRADI 2014, 51.

⁶⁰ KERTÉSZNÉ VÁRADI 2014, 55-60.

Spain and Portugal, two fresh democracies leaving dictatorial systems behind, asked for accession in 1977. During the first enlargement, the integration of the new MS was smooth as they had strong economies and their level of development was the same as of the original, founding MS. However, the enlargement with Southern states will later constitute a great financial burden to the Communities as well as for the founding MS (Besides the applications of Spain and Portugal, the negotiations were still well in progress with Greece). Nonetheless, the stabilization and the safety of the region was a significant goal for the Communities. Therefore, albeit their preparation for accession took longer, the Community also provided them with financial aid, as they could not have left these fresh democracies without support. The so-called **Southern Enlargement**, i.e. the enlargement of the Communities to the South, thus ended with the accession of Spain and Portugal on 1 January 1986.⁶¹

The history of the Communities became the story of enlargements and amendments of the founding treaties. The *Single European Act* (SEA)⁶² entered into force in 1987, through which the aim of the then twelve MS was to create a **common internal (single) market**, such an area without internal borders, where the free movement of the four freedoms: i.e. of goods, persons, services, and capital, is possible. The single market was then created by 1 January 1993. The SEA was the foundation of further integration into a political one and towards a monetary and financial union.⁶³ Environmental protection, consumer protection, and regional policy became part of the fields of activities at that time as community policies.⁶⁴

10.5. ROAD TO THE EUROPEAN UNION

Drastic processes were in motion in Central and Eastern Europe in the end of the 1980s. There was **regime change**, firstly in Poland, then in Hungary in 1989, then, by 1990, in all of Central and Eastern Europe, in all states formerly under the influence of the USSR.

In September 1989, Hungary opened its borders to every citizen of the Eastern European states, during which time 13,000 East-German citizens could reach the Western part of divided Germany. All these events gave great impetus to the freedom movements of East Germany.⁶⁵

On 31 August 1990, delegates of the German Democratic Republic (GDR, *Deutsche Demokratische Republik* – DDR, the Eastern part), and the Federal Republic of Germany (Federal Republic, *Bundesrepublik Deutschland* – BRD, the Western part), signed the treaty of the (re)unification of Germany, which entered into force on 3 October 1990.⁶⁶ According to the treaty, the former Länder of East Germany “enter” the Federal Republic as a founding MS of the EEC, the GDR ceases as an independent state, the Länder become integral parts of the Federal Republic of Germany. This did not affect the continuous statehood of the Federal Republic in international law, furthermore, not even the name Federal Republic of Germany was modified.⁶⁷

German unification did not take the Communities as a surprise. During the negotiations on the Treaty of Rome, the delegation of the Federal Republic made a statement on 28 February 1957, in

⁶¹ KERTÉSZNÉ VÁRADI 2014, 61-68.

⁶² Single European Act, OJ L 169., 29.5.1987.

⁶³ CHALMERS–DAVIES–MONTI 2010, 20-22.

⁶⁴ The official website of the EU: <https://eur-lex.europa.eu/legal-content/HU/TXT/?uri=LEGISSUM%3Axy0027>

⁶⁵ OSZTOVICS 2012, 41.

⁶⁶ Vertrag über die Schaffung einer Währungs-, Wirtschafts- und Sozialunion zwischen der Bundesrepublik Deutschland und der Deutschen Demokratischen Republik. <http://www.verfassungen.de/de/ddr/waehrungsunionsvertrag90.htm>

⁶⁷ GIEGERICH 1991, 398.

which they reserved the right to revise the Treaty of Rome and the Euratom Treaty if Germany is eventually reunited. Furthermore, the government of the Federal Republic continuously informed the institutions of the Communities about the developments during the unification process. The Council, the Commission and the Parliament paid special attention to. Then, in September 1990, France, the UK, the USA, Russia and the two Germanies signed the treaty which made the reunification of Germany possible.⁶⁸

After the disintegration of the USSR in 1990-1991, the Iron Curtain also was quickly taken down, thus putting an end to the cold war as well.⁶⁹

Another important step forward was when the MS of EFTA (except Switzerland) signed the treaty on the **European Economic Area (EEA)** with the European Community in Porto, which is in force since 1994. The EEA extended the single market of the EU with the market economies of the EFTA states, which do not intend to become members of the political community of the EU. The rules of the single market and the jurisdiction of the European Court of Justice for the most part extend to the whole EEA.⁷⁰

The comprehensive or radical amendment of the founding treaties was materialized with the **Treaty of Maastricht**, which entered into force in 1 November 1993.⁷¹

The **European Union** was created with the Treaty of Maastricht, with an structural system modelled on Greek pillars. The first pillar embodies the European Communities, the former three integration organizations: the ECSC, the EEC that since has become EC, and the Euratom Community. The law of the first pillar is the so-called Community law, this was the supranational pillar. The second pillar rendered Common Foreign and Security Policy (CFSP) independent, while the third pillar operated justice and home affairs (JHA) cooperation. These last two pillars were regulated as traditional intergovernmental cooperation. The law of the three pillars comprised the so-called EU law. Following 1 November 1993, there was only one international organization.⁷² The Treaty of Maastricht introduced the status of **EU citizenship** to the citizens of the MS to express entitlements, rights complementing national citizenship.⁷³

10.6. FROM THE FOURTH ENLARGEMENT TO THE TREATY OF AMSTERDAM

Austria was the first applicant from the EFTA members in 14 July 1989, then Sweden, Finland, Norway, and Switzerland asked for membership in the European Communities.

At their session in Lisbon, on 26-27 June 1992, the European Council, comprising the Heads of States and Governments of the Communities, based on the comprehensive opinion of the Commission called “Europe and the challenges of enlargement” reached a consensus on starting the negotiations with the EFTA members as soon as possible after the successful ratification of the Treaty of Maastricht.⁷⁴

⁶⁸ KERTÉSZNÉ VÁRADI 2014, 69-80.

⁶⁹ HARBUTT 1986, 267-300.

⁷⁰ The official website of EFTA: <http://www.efta.int/eea/eea-agreement>

⁷¹ CHALMERS–DAVIES–MONTI 2010, 26-27.

⁷² KERTÉSZNÉ VÁRADI 2014, 90.

⁷³ KERTÉSZNÉ VÁRADI 2014, 85-86.

⁷⁴ The European Council [Lisbon Summit 1992], Lisbon, 26-27 June 1992. In: Bulletin of the European Communities, 6/1992.7.

The European Council used the expression of ‘*candidate country*’ for the first time for Austria, Sweden, Finland and Switzerland.⁷⁵

Austria, Sweden and Finland were all economically strong and thanks to the EEC Treaty, properly prepared states; however, all three were engaged in a policy of neutrality. Austria and Sweden had permanent neutrality policies, while Finland meant safeguarding its own defense powers and not joining any military organizations under neutrality.⁷⁶ From the angle of Community law, difficulties might have occurred in the area of CFSP, as these states could have become the automatic and systematic opposition of some measures based on their neutrality.⁷⁷

From the beginning of European integration it has been the obligation of the MS to guarantee the harmonization of their national legal systems with Community law, as domestic law cannot contradict Community law. As the main reason of their application to the EEC was to share in the economic advantages of the membership, these states needed to redefine the actual content of their neutrality.⁷⁸ At last, all three states declared that as members of the Communities they aim to actively participate in CFSP, in the creation of economic and monetary union (EMU) and in other important stages of the development of the integration. The Treaty of Maastricht would not create a new military block.⁷⁹

Switzerland and Norway also asked for accession in this round. However, Switzerland soon withdrew the application, and in Norway a referendum of accession repeatedly decided against it, so these two states are not – to this day – members of the European Union. Following exceptionally quick accession negotiations, Austria, Sweden and Finland became members of the EU on 1 January 1995. The fourth enlargement was the first enlargement of the EU as well.⁸⁰

The next amendment of the founding treaties was materialized by the *Treaty of Amsterdam*, which entered into force on 1 November 1999.⁸¹

The largest change was apparent in the third pillar. Asylum and immigration, visa policy, the external and internal border control, and the judicial cooperation in civil matters were transferred from the third EU pillar to the first. This is important because the intergovernmental nature of these areas thereby ceased, and they became supranational, becoming unanimous instead of qualified majority decisions. Only police and judicial cooperation in criminal matters remained in the third pillar. An important aim of the treaty was to create an area of freedom, security and law, which is based on the free movement of persons.⁸²

The treaty was, however, disappointing in the area of decision-making and institutional reforms, significant decisions on these issues were adjourned. These unsettled questions are called the ‘Amsterdam leftovers’,⁸³ which required another amendment.

It is important to mention, that the Schengen Convention was incorporated into the institutional framework of the EU.⁸⁴ France, Germany, Belgium, the Netherlands and Luxembourg signed the **Schengen**

⁷⁵ The European Council [Lisbon Summit 1992], Lisbon, 26-27 June 1992. In: Bulletin of the European Communities, 6/1992.10.

⁷⁶ KERTÉSZNÉ VÁRADI 2014, 104-111.

⁷⁷ VÁRADI 2014, 106.

⁷⁸ KARTOS 1992, 673-683.

⁷⁹ The Challenge of Enlargement. Commission opinion on Sweden’s application for membership. Document drawn up on the basis of SEC (92) 1582 final, 31 July 1992. In: Bulletin of the European Communities, Supplement 5/92. 6.

⁸⁰ KERTÉSZNÉ VÁRADI 2014, 125.

⁸¹ Treaty of Amsterdam amending the Treaty on the European Union, the Treaties establishing the European Communities and certain related acts, HL C 340., 1997.11.10.

⁸² TATHAM 2009, 212.

⁸³ TATHAM 2009, 403-404.

⁸⁴ TATHAM 2009, 174.

Agreement in 1985, and its aim was to gradually terminate the internal border control of the members on joint borders, eventually with no internal border control remaining as a prospective goal. To realize the Convention, they signed the *Convention Implementing the Schengen Agreement* on 19 June 1990, whereby the MS abolished control of all person on all internal borders, while external border controls were strengthened. The agreement and the convention both entered into force in 1995 with the membership of the five founding members, as well as Spain and Portugal. Subsequently, other states decided on joining the Schengen zone, currently it includes 24 countries. Hungary is a member since 2007.⁸⁵

10.7. FROM THE TREATY OF NICE TO THE FIFTH ENLARGEMENT

To guarantee the effective operation of the EU, it became necessary to start negotiations on the necessary institutional reforms when the Treaty of Amsterdam entered into force, already in May 1999. The aim of the next round of amendments to the founding treaties was to decide on the ‘Amsterdam leftovers’ as well as the preparation of the EU institutional system for the following enlargements in order to guarantee effective operation. These were the reasons behind the *Treaty of Nice*, signed on 26 February 2001, and entering into force on 1 February 2003, amending the founding treaties for the fourth time.⁸⁶

In addition to the fifteen EU MS, those candidate states were accounted for, who were in negotiations with the EU during the amendment of the founding treaties. These were Malta, Cyprus, the Central and Eastern European states, the Baltic states, Romania, and Bulgaria.

After tearing down the Iron Curtain, the former Socialist states, marking the start of democratization, started to build connections with the European Communities, then with the developing European Union. To improve the economy, the political system and the legal system of these states, the EU signed association agreements with them, called **European Agreements**. After these entered into force, the candidate states asked for accession to the EU one after another.

The most well-known event of the fifth round of enlargement, or **Eastern Enlargement** is the European Council held in Copenhagen in June 1993. The Heads of States and Governments of the MS agreed on that the Central and Eastern European states can only accede the European Union if they comply with political, legal and economic membership conditions.⁸⁷ These conditions are the so-called **Copenhagen criteria**.

Copenhagen Criteria

- 1) The candidate country has stable institutions of guaranteeing democracy, rule of law, human rights and respect for and protection of minorities,
- 2) A functioning market economy which can cope with the competition in the European Union,
- 3) The given state take on the obligations of membership, including consensus in the aims of political, economic and financial union
- 4) The ability of the European Union to let new member join the community and keep the impetus of the integration (so-called absorption capacity), as the further enlargement cannot stop the impetus of the integration.⁸⁸

⁸⁵ The official website of the European Commission: https://ec.europa.eu/home-affairs/what-we-do/policies/borders-and-visas/schengen_en

⁸⁶ KERTÉSZNÉ VÁRADI 2014, 177.

⁸⁷ The European Council Copenhagen 21-22 June 1993. In: Bulletin of the European Communities No. 6/1993. I.1

⁸⁸ The European Council Copenhagen 21-22 June 1993. In: Bulletin of the European Communities No. 6/1993. 13.

In 1998, accession negotiations started with 12 states (the 10 Central-Eastern European states, Cyprus and Malta). During these negotiations, were Poland and Hungary were proven to be the most prepared. Upon the successful conclusions of the accession negotiations, the Treaty of Accession was formally signed in Athens on 16 April 2003.⁸⁹ The treaty entered into force on 1 May 2004, by which the EU got an additional 10 new MS: Cyprus, the Czech Republic, Estonia, Latvia, Lithuania, Poland, Hungary, Malta, Slovakia and Slovenia.

Two from the above twelve states, namely Bulgaria and Romania, were unprepared to close the accession negotiations at the end of 2002. The closure of their accession negotiations took place only at the end of 2004, but the accession process of Bulgaria and Romania was not completed. Interestingly, it was the first time when such an accession date was set, which could be delayed as a sanction if the candidate states were not complying with the conditions, so there was an element of uncertainty. It was also a novelty, that the Commission was stricter in supervising of the candidate states contrary to previous enlargements, which was exceptionally continued even after the Treaty of Accession was signed and entered into force. (Currently the freshest reports can be found from 2017 on the dedicated website of the Commission). Bulgaria and Romania became MS of the European Union on 1 January 2007, thereby increasing the number of the MS to 27.⁹⁰

10.8. FROM THE TREATY OF LISBON TO PRESENT DAY

The ever closer cooperation and the increasing membership of the EU gave the idea of a so-called Constitution for Europe from when the Treaty of Amsterdam was created. On the 2001 Laeken summit, the MS decided on establishing a European Convention to draw up the **Constitutional Treaty**. The Convention, regarding itself as a constitutional assembly, was led by former French president, *Valéry Giscard d'Estaing*, and the members were delegates of the governments and parliaments of the MS, as well as of the European Parliament and the Commission.⁹¹

International organizations have statutes, while states have constitutions. The Constitutional Treaty would have been somewhere between the two, repealing the former founding treaties (the ECSC Treaty, the Treaties of Rome and their amendments until the Treaty of Nice), defining every basic rule of the operation for the EU in one document. The aim of the new treaty was to make the operation of the EU more effective and transparent, creating a Europe closer to its citizens. It would have incorporated (thereby making it obligatory) the **Charter of Fundamental Rights** of the European Union containing the human rights catalogue of the EU, which was ceremonially pronounced on 7 December 2000.⁹²

The Constitutional Treaty was signed by the MS in Rome on 29 October 2004, upon which the MS started the process of confirmation according to their own constitutional rules, the so-called ratification. The treaty was rejected in the French and Dutch referenda in 2005, which was the point of no return for the treaty, it was finally taken off the agenda.⁹³

The results of the two referenda created one of the deepest crises of the EU, with Eurosceptics straight out predicting the dissolution of the integration, while the MS were negotiating and searching for a solution. The halted process of reform got a new impetus in the first half of 2007 during the German, then the Portuguese Presidencies of the Council, through costs of serious compromises.

⁸⁹ Treaty of Accession. HL L 236., 2003.9.23., 17-31.

⁹⁰ KERTÉSZNÉ VÁRADI 2014, 201-204.

⁹¹ OSZTOVICS 2012, 51.

⁹² OSZTOVICS 2012, 53.

⁹³ GOMBOS 2012, 35.

The renewal of the integration was essential from time to time to guarantee smooth operation and to adapt to the increased membership and the challenges of new times, as well as to extend the integration to further areas. This could and still can only happen by amending the founding treaties with the consent of the MS, which was sometimes very hard to reach. During the creation of the Reform Treaty replacing the Constitutional Treaty, several caricatures were published on the different methods of reaching unity and compromises. In one of them, French president *Nicolas Sarkozy* massages the shoulders of the reluctant Polish president *Lech Kaczynski*, while *Angela Merkel*, the German chancellor, massages his feet to persuade him to accept the treaty. The Reform Treaty was signed in Lisbon on 13 December 2007, and it entered into force as the Treaty of Lisbon after successful ratification on 1 December 2009.⁹⁴

The **Treaty of Lisbon** is currently the last amendment of the founding treaties, which contains the essential and detailed rules of the operation of the EU. It reorganizes the founding treaties, whereby now the two documents provide the framework of the operation for the EU together. The EC Treaty became the Treaty on the Functioning of the European Union (TFEU), while the other became the Treaty on the European Union (TEU). The pillar structure of the EU was terminated. The legal successor of the Community is the EU, therefore we now talk about a unified European Union. According to the Treaty of Lisbon, the EU has legal personality, so it can conclude international treaties (primarily it was possible only with all Member States), and can join international organizations. The new text of the founding treaties mostly preserved the achievements of the draft Constitutional Treaty, albeit left out the elements objected to by several MS, along with the UK, namely those, which would show the Union as a state (e.g. the flag, the anthem and the Foreign Minister of the EU).⁹⁵

The Treaty of Lisbon systematizes and clarifies the competences of the Union. For the first time, it has provisions on the possible withdrawal from the EU in the Article 50 TEU. The Treaty of Lisbon closed the process of breaking the intergovernmental character of police and judicial cooperation in criminal matters in the area of freedom, security and justice.⁹⁶

The **Charter of Fundamental Rights** of the European Union has the same binding force as the founding treaties according to the provisions of the Treaty of Lisbon. The treaty also prescribes the accession of the EU to the European Convention on Human Rights (ECHR).⁹⁷

In the area of CFSP, the Treaty of Lisbon contains a clause of mutual defense, under which MS must provide assistance to another MS under attack. The clause of solidarity sets forth the Union and its MS must help in every possible way if a MS is under terror attack or natural disaster or man-made disaster.⁹⁸

The last enlargement of the EU happened after the Treaty of Lisbon entered into force. Croatia, as a Western Balkan state, asked for accession to the EU already in 2003. Here, we can also see the EU-motivation to use the enlargement to stabilize an area. To democratize the Western Balkans' states after the devastating Yugoslav War, the EU started to sign the association and stabilization agreements with them aiming at their development. Two basic requirements appeared in terms of the states, as well as Croatia. One was cooperation with the International Criminal Tribunal for the former Yugoslavia (ICTY) to apprehend Yugoslav war criminals to bring them to justice; and the other was regional cooperation with each other.⁹⁹

⁹⁴ BLUTMAN 2013, 37.; Treaty of Lisbon amending the Treaty on European Union and the Treaty establishing the European Community, OJ C 306, 17.12.2007. 1-229.

⁹⁵ Summary of the Treaty of Lisbon, from the official website of the European Parliament: <http://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon>

⁹⁶ Summary of the Treaty of Lisbon, from the official website of the European Parliament: <http://www.europarl.europa.eu/factsheets/en/sheet/5/the-treaty-of-lisbon>

⁹⁷ Article 6 (1) and (2) TEU

⁹⁸ Article 222 TFEU; for more details see: JUHÁSZ 2015a; JUHÁSZ 2015b

⁹⁹ KERTÉSZNÉ VÁRADI 2014, 214.

Croatia needed to meet a very complex system of conditions to become a MS.¹⁰⁰ Accession negotiations started in 2005, albeit they ended only after the Treaty of Lisbon entered into force, in 2011. After all MS successfully ratified the Croatian Treaty of Accession, the number of the MS became 28 with Croatia after 1 July 2013.¹⁰¹

10.9. THE INSTITUTIONAL FRAMEWORK OF THE EUROPEAN UNION

The signs of intergovernmental cooperation and supranational operation of the MS can both be found in the institutions of the EU.

10.9.1. THE EUROPEAN COUNCIL

The first session of the Heads of State and Government was held as the European Council in 1974, then these sessions became more and more frequent. Representation of a MS by a head of state or government depends on the constitutional system of the respective MS. France is represented by the President as Head of State, while all the other MS are typically represented by the Head of Government.¹⁰²

The European Council was given the rank of institution by the Treaty of Lisbon. The role of the institution is to give the Union the ‘necessary stimulus for the development’ and define the ‘directions and priorities of general politics’. The European Council became **the highest-level decision-making institution of the EU**. However, the European Council does not have legislative duties. The European Council elects its own president for two and half years. The members of the European Council are the Heads of State and Government of the MS, the president of the European Commission, and the High Representative for Foreign Affairs and Security Policy of the EU. The European Council is assisted by the Secretariat.

It can initiate new policies, decide on political questions related to the enlargement of the EU, and any intention of withdrawal must be notified to the European Council. In the area of CFSP, it can decide on general guidance and can represent the Union to third countries, without prejudice to the competences of the High Representative. The European Council shall have minimum two summits per semester in Brussels, or in the MS which has the rotating (trio) Presidency in the Council (of the European Union). In the summit meetings, they debate those complex and sensitive issues which cannot be resolved on lower levels of intergovernmental cooperation.¹⁰³

10.9.2. THE COUNCIL OF THE EUROPEAN UNION (THE COUNCIL)

The Council (*Council of the European Union*) is the **most important legislative institution** of the EU. The members of the Council are the delegates of the MS from the ministerial level: ministers or state secretaries, who can undertake obligations and vote for their government.¹⁰⁴

The Presidency of the Council is rotating between the MS, with a different one having the Presidency every six months. To improve the continuity of the work, three successive MS form a trio presidency

¹⁰⁰ KERTÉSZNÉ VÁRADI 2014, 220.

¹⁰¹ KERTÉSZNÉ VÁRADI 2014, 242-244.

¹⁰² OSZTOVICS 2012, 64.

¹⁰³ GOMBOS 2012, 52.

¹⁰⁴ Article 16 (2) TEU

for 18 months, cooperating closely and deciding together on the long-term aims and priorities during this time.¹⁰⁵

The Council can hold meetings in different formations connected to the topic of the agenda, as an example, the General Affairs Council, the Foreign Affairs Council and the Economic and Financial Affairs Council. The chairman of the formations is the rotating president, the only exception is the Foreign Affairs Council, where the High Representative of the Union for Foreign Affairs and Security Policy is the permanent chairman. The Council decides by a simple majority, a qualified majority or by unanimity, based on the decision that needs to be brought.¹⁰⁶

It decides on EU legal norms and on the annual budget jointly with the European Parliament based on the legislative proposals of the European Commission. The Council harmonizes the policies and represents the interests of the MS. It creates the CFSP of the EU based on the guidance of the European Council. The Council concludes international treaties between the EU and other countries or international organizations.

10.9.3. THE EUROPEAN COMMISSION

The European Commission is the politically independent **executive institution** of the EU and embodies the interests of the Union. The seat is in Brussels, and it has representations in the MS and delegations in several capitals of the world. The Commission consists of Commissioners, called the College of Commissioners, with one Commissioner from each MS, which is 28 members at present. The term of office of the Commission is 5 years. The Commission is led by the president who can decide on the area of policies within the field of responsibility of the respective Commissioners. One of the vice presidential positions is permanently filled by the High Representative of the Union for Foreign Affairs and Security Policy.¹⁰⁷

The day-to-day operation of the Commission is taken care of by the employees (lawyers, economists, etc.), who work in departments called Directorates-General (DGs). Every Directorate-General is responsible for a specified policy, for instance, the Directorate-General for Competition or the Directorate-General for the Enlargement of the EU.¹⁰⁸

The Commission creates legislative proposals to the European Parliament and the Council and is responsible for the execution of the decisions made by the European Parliament and the Council. The Commission drafts the annual budget of the EU, which must be approved by the Parliament and the Council.

It oversees compliance with EU law, and – in cooperation with the Court of the European Union – controls the implementation of EU law in the MS. The Commission also represents the EU on the international level, it can negotiate international treaties for the EU.

10.9.4. THE EUROPEAN PARLIAMENT

The European Parliament is one of the main institutions of the EU. It seats in Strasbourg, the committee meetings are held in Brussels. The members are representatives of European citizens (MEPs). The

¹⁰⁵ The official website of the Council: <http://www.consilium.europa.eu/hu/council-eu/presidency-council-eu/>

¹⁰⁶ The official website of the Council of the European Union: <http://www.consilium.europa.eu/hu/council-eu/configurations/>

¹⁰⁷ Article 17 TEU

¹⁰⁸ The official website of the European Commission: https://ec.europa.eu/info/strategy/strategy-documents_en

number of MEPs was maximized in 750, plus the President. The MEPs are elected based on direct and universal suffrage, on free and secret elections from 1979 for 5 years by the citizens of the MS: the citizens of the EU. The number of seats in the Parliament for the MS tries to adhere to the number of population of the respective MS, with the upper cap (limit) being reduced to 96, and the lower increased to 6 per state.¹⁰⁹ The MEPs form parliamentary groups, i.e. factions, based on their political beliefs, not on their citizenship.

The roles of the Parliament increased continually to act against the so-called **democratic deficit**. The aim is to make the EU decisions in a more understandable and transparent way with the participation of EU citizens.¹¹⁰ That was the reason why the Treaty of Lisbon made the Parliament and the Council co-legislators and created full equality between the Parliament and the Council in adopting the annual budget. The Parliament now also has the right to appointment and control regarding the other institutions.¹¹¹ The Parliament cooperates with the national parliaments to create a proper flow of information.¹¹²

10.9.5. THE COURT OF JUSTICE OF THE EUROPEAN UNION

The Court of Justice of the European Union (formerly ECJ, European Court of Justice) as the **judicial authority of the EU**, is responsible for the uniform interpretation and application of EU law in cooperation with MS courts. The Court seats in Luxembourg, consisting of two justice bodies: the Court of Justice and the General Court (the former Court of First Instance).

The Court of Justice consists of 28 judges and 11 Advocates General (AGs). The judges and AGs are appointed by MS governments by common accord, after consultation with the panel responsible for giving an opinion about the candidates. The term of office is 6 years and it is renewable. The AGs support the work of the Court, their role is to issue impartial and independent opinions in all cases in front of the Court.¹¹³

The General Court consists of minimum one judge from every MS (now there are 46 judges, but by 2019, there will be 56). The General Court differs from the Court of Justice in that it has no permanent AGs. The tasks of the AG can be assumed by an judge exceptionally appointed for this purpose.¹¹⁴

Since its establishment in 1952, it has been the duty of the Court of Justice of the European Union to ensure the respect for the law of the European Union in the interpretation and application of the founding treaties. In the interest of ensuring its successful operation, the Court does not have any general jurisdiction, it exercises its power in concrete types of action. The language of a case could be any of the 24 official languages of the EU, and communication with the parties must take place in the language of the case, and its case law must be published in every MS. This solution is unique in the field of administration of justice on the international level, as other international judicial fora normally work with 2 or 3 official languages.¹¹⁵

¹⁰⁹ Article 14 TEU

¹¹⁰ FEJES 2013, 175-176.

¹¹¹ Article 284 TFEU

¹¹² The official website of the European Parliament: <http://www.europarl.europa.eu/portal/en>

¹¹³ Article 253 TFEU

¹¹⁴ Article 19 (2) TEU

¹¹⁵ The official website of the Court of Justice of the European Union: https://curia.europa.eu/jcms/jcms/Jo2_7033/en/

10.9.6. THE EUROPEAN COURT OF AUDITORS

The European Court of Auditors, as the **financial ‘conscience’ of the EU**, was established in 1977, and seats in Luxembourg. The members of the European Court of Auditors, one from each MS, are appointed by the Council (of the European Union) after consultation with the European Parliament. The term of office is 6 years and it is renewable. The auditors have complete independence during their examinations.¹¹⁶

It audits the revenue and the spending of the EU to decide whether EU funding has been spent acquired and properly, whether they have been properly accounted for, and whether their use was cost-effective. It audits persons and organizations managing EU financial resources, the MS and the states receiving EU aids and assistance. Its findings and recommendations are compiled in so-called audit reports for the attention of the European Commission and the governments of the MS. In the case of suspicion of corruption or other illegal activity, it shall notify the European Anti-Fraud Office (OLAF). It creates an annual report to be submitted to the European Parliament and Council.¹¹⁷

10.9.7. THE EUROPEAN CENTRAL BANK

The Treaty of Maastricht decided on the establishment of the **European Economy and Monetary Union (EMU)** and its detailed schedule. To this effect, the Treaty prescribed the establishment of the European System of Central Banks (ESCB) and the European Central Bank (ECB). They started to operate officially from 1 June 1998. The ESCB consists of the ECB and every MS central bank, irrespective of whether the Euro as the official currency was introduced or not.¹¹⁸ The monetary policy of the EU is being directed by the Frankfurt-based ECB and those MS national central banks (currently 19), that have introduced the Euro.¹¹⁹

Its most important tasks are to sustain price stability within the Eurozone and to preserve the purchasing power of the uniform currency, to conduct independent foreign exchange market operations, and to issue and produce currency and the authorization such activity.¹²⁰

10.10. THE EUROPEAN UNION AT PRESENT

At present, the EU faces several political, economic and security challenges. One of these is the negotiation process infamously called ‘*Brexit*’, which supposedly will end with the UK Kingdom leaving the EU,¹²¹ decreasing the number MS for the first time in the history of the integration. One of the challenges is to continue enlargement with the aim of stabilizing third countries and specific areas, like stabilizing the Western Balkans for the purposes of security policy. At present, the following states are candidate states: Albania, the former Yugoslav Republic of Macedonia (soon to become North Macedonia expectedly), Montenegro, Serbia, and Turkey. It means that accession negotiations and the implementation of EU law are proceeding without a concrete closing date.

¹¹⁶ TFEU Article 285

¹¹⁷ TFEU Article 287

¹¹⁸ TFEU Article 282 (1)

¹¹⁹ The official website of the European Central Bank: <https://www.ecb.europa.eu/ecb/history/emu/html/index.hu.html/>

¹²⁰ TFEU Article 282 (2)

¹²¹ Interestingly enough, in its most recent decision, C-621/18 (Wightman et al; ECLI:EU:C:2018:999), the CJEU argued that it is possible for the UK to go back on its withdrawal notification under Article 50 TEU in accordance with their own constitutional requirements by affirming an unconditional commitment to EU membership.

The greatest external challenge to the EU is migration, only partly caused by the flow of refugees, and also including economic migration. The management of this issue is one of the key questions at present for the EU and its MS.

As it can be seen from the above, the EU was originally established on an economic basis, however, to this date, the scope of activities expanded (spilled over) to many different areas, furthermore, there are efforts to realize security policy integration as well. Albeit, in the case of the EU, we talk about a *quasi*-international organization with a supranational character, one has to keep in mind that the whole integration is based on the cooperation of the MS. This can be closer between some MS, and looser in the case of others, but the key is to preserve the unity and the achieved results.

QUESTIONS FOR SELF-CHECK

1. What was common in the unity ideas of the 16th and 17th centuries?
2. Who proposed first the establishment of a supranational integration in Europe?
3. Which significant expression can be linked to *Victor Hugo*?
4. What conception was created by *Kalergi*, what was the point of his theory?
5. Which two factors lead to the establishment of the ECSC?
6. Who are the founding fathers of European integration?
7. How many states signed the Treaty of Rome in 1957 to establish the European Economic Community?
8. Which important treaty was signed between the European Community and the EFTA in 1992?
9. Which treaty established the EU?
10. Which is the most important decision-making institution of the EU?
11. Which interests are represented in the European Commission?

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